

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS & ST. JOHN

_____	x	
WILLIAM O. PERKINS, III, individually and on	:	
behalf of all others similarly situated,	:	case no. 3:26-cv-12
Plaintiff,	:	
	:	
v.	:	
	:	
THE UNITED STATES VIRGIN ISLANDS,	:	
Defendant.	:	
_____	x	

CLASS ACTION COMPLAINT

Plaintiff, WILLIAM O. PERKINS, III, by and through undersigned counsel, alleges as follows:

INTRODUCTION

1. This is a class action lawsuit to recover overpayment interest owed to the Plaintiff and the Class members from Defendant THE UNITED STATES VIRGIN ISLANDS.
2. In 2019, Congress enacted the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”), Pub. L. No. 100-707.
3. The Stafford Act amended 26 U.S.C. § 7508A and provided for mandatory tax relief for taxpayers residing within any area for which a disaster is declared.
4. 26 U.S.C. § 7508A, as mirrored to the USVI, *see* 48 U.S.C. § 1397, suspends the statutory exemptions that permit the Virgin Islands Bureau of Internal Revenue (“BIR”) to withhold interest due to Virgin Islands taxpayers on tax overpayments. Scores of Virgin Islands taxpayers, *see* 26 U.S.C. § 932, overpay their income taxes each year and subsequently receive refunds (albeit often substantially delayed). Pursuant to 26 U.S.C. § 6611(a), the default rule is that the

BIR owes taxpayers interest on overpayments because the USVI has had use of that money (i.e., “overpayment interest”).

5. There are several broad exemptions to 26 U.S.C. § 6611(a)’s default rule that result in the BIR not paying overpayment interest to most Virgin Islands taxpayers. *See* 26 U.S.C. § 6611(b)(3), (e) (collectively, the “Interest-Limiting Exemptions”). One form of tax relief provided by the Stafford Act’s amendment to 26 U.S.C. § 7508A is the suspension of those Interest-Limiting Exemptions during federally declared disasters for taxpayers residing in the disaster area.
6. In Spring 2020, President Trump declared, pursuant to the Stafford Act, that the COVID-19 pandemic constituted a major disaster in all states and territories “beginning on January 20, 2020, and continuing.” Subsequent amendments to those declarations fixed May 11, 2023, as the end of “the incident period for all COVID-19 major disaster declarations.” Pursuant to the Stafford Act amendment to Section 7805A, this should have triggered mandatory tax relief (including the elimination of the Interest-Limiting Exemptions) for all Virgin Islands taxpayers.
7. The Tax Court has held that the COVID-19 Presidential disaster declarations and Section 7805A (as amended by the Stafford Act) triggered an automatic extension of tax filing deadlines effective January 20, 2020. *See Abdo v. Comm’r*, 162 T.C. 148 (Tax Ct. 2024) (*en banc*).
8. And a few months ago, the United States Court of Federal Claims confirmed that, “under the 2019 amendment [i.e., the Stafford Act], the automatic, or mandatory, extension period began on January 20, 2020, and ended on July 10, 2023, 60 days after the [COVID-19] emergency declaration’s latest incident date.” *Kwong v. United States*, 179 Fed. Cl. 382, 389 (Nov. 25, 2025).

9. Thus, pursuant to Section 7805A, the USVI owes overpayment interest to all qualifying Virgin Island taxpayers who were entitled to the benefits of the mandatory disaster tolling period that ran from January 20, 2020, through July 10, 2023.
10. Plaintiff, on behalf of himself and all similarly situated Virgin Islands taxpayers, brings this action seeking payment of the overpayment interest that the Defendant owes pursuant to 26 U.S.C. §§ 6611 and 7508A.

PARTIES, JURISDICTION, VENUE, & ADMINISTRATIVE EXHAUSTION

11. WILLIAM O. PERKINS, III, (“Plaintiff”) is a natural person and for the 2020 tax year was a bona fide resident of the Virgin Islands.
12. Defendant THE UNITED STATES VIRGIN ISLANDS (the “USVI”) is an unincorporated territory belonging to the United States of America and governed by the Revised Organic Act, 48 U.S.C. §§ 1541, *et. seq.*
13. Jurisdiction is appropriate in this Court under 28 U.S.C. § 1331 and 48 U.S.C. § 1612 as this suit is for the recovery of overpayment interest from the USVI.
14. Venue pursuant to 28 U.S.C. § 1391 is appropriate in this Court as the Plaintiff resided on the island of St. Thomas during the 2020 tax year; the seat of the USVI government is located on St. Thomas; and this is a class action suit against the USVI.
15. Plaintiff also has standing under 5 V.I.C. § 80 to bring this action as he is a Virgin Islands taxpayer.
16. Exhaustion of administrative remedies, including the filing of pre-suit notice to the Defendant, is *not required* because this is an action for overpayment interest, and not an action for “any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or of any

penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected[.]” 26 U.S.C. § 7422(a); see *Pfizer Inc. v. United States*, 939 F.3d 173, 177 (2d Cir. 2019); see also *Charleston Area Med. Ctr., Inc. v. United States*, 138 Fed. Cl. 626, 628 n.1 (2018) (“Plaintiffs’ suit does not seek the recovery of taxes alleged to have been wrongfully paid; rather it seeks recovery of additional interest on the tax refund the IRS has found Plaintiffs entitled to receive. The administrative exhaustion requirement of I.R.C. § 7422(a) [governing tax-refund suits] is therefore inapplicable.”).

DEMAND FOR JURY TRIAL

17. A trial by jury on all counts so triable is demanded pursuant to the Seventh Amendment, 48 U.S.C. § 1561, and Fed. R. Civ. P. 38.

STATUTORY BACKGROUND

18. If a taxpayer pays more tax than is owed, the USVI must, after applying any required offset, refund the overpayment or credit it against a tax liability of the taxpayer. 26 U.S.C. § 6402(a); *Jones v. Liberty Glass Co.*, 332 U.S. 524, 531 (1947).

19. The Defendant (including the BIR) typically must include interest on the amount of overpayment. 26 U.S.C. § 6611(a) states: “[i]nterest shall be allowed and paid upon any overpayment in respect of any internal revenue tax at the overpayment rate established under section 6621.”

20. Overpayment interest ordinarily starts accruing on the later of: (i) the date a Virgin Islands taxpayer’s payments exceed the Virgin Islands taxpayer’s liability; or (ii) the Virgin Islands

taxpayer's payment deadline, determined without regard to extensions. *See* 26 U.S.C. §§ 6611(b)(1), (2), 6513; 26 C.F.R. § 301.6611-1(b), (d).

21. Notwithstanding the default rule that the Defendant (including the BIR) must pay overpayment interest, several Interest-Limiting Exemptions limit that obligation: (a) the "Late Filing Rule"; (b) the "45-Day Rules"; and (c) the "180-Day Rules."
22. The Late Filing Rule, *see* 26 U.S.C. § 6611(b)(3), provides that if a Virgin Islands taxpayer files a tax return late, no overpayment interest accrues until the tax return is filed.
23. The 45-Day Rules, *see* 26 U.S.C. § 6611(e)(1)-(3), provide that:
 - no interest is owed on an overpayment that is refunded either within 45 days after the relevant tax return is filed or within 45 days after the tax return's filing deadline, determined without regard to extensions, *see* 26 U.S.C. § 6611(e)(1);
 - no interest accrues on an overpayment after the date that a refund claim is filed if the overpayment is refunded within 45 days thereafter, *see* 26 U.S.C. § 6611(e)(2); and
 - any interest accrual on an overpayment is reduced by 45 days if the overpayment arises from an adjustment initiated by the BIR, *see* 26 U.S.C. § 6611(e)(3).
24. The 180-Day Rules are analogues of the 45-Day Rules that apply with respect to overpayments of tax withheld from certain payments to foreign persons, and substitute 180-day periods for the 45-day periods. *See* 26 U.S.C. § 6611(e)(4).
25. The Interest-Limiting Exemptions, however, do not apply to Virgin Islands taxpayers who timely file tax returns and whose filing deadlines have been tolled pursuant to 26 U.S.C. § 7508, which addresses combat zone deployment, or 26 U.S.C. § 7508A, which addresses federally declared disasters.

26. 26 U.S.C. § 7508(b) suspends the Interest-Limiting Exemptions (*see* 26 U.S.C. § 6611(b)(3), (e)) for servicemember or servicemember’s spouse who qualifies under 26 U.S.C. § 7508 for tolling with respect to a return and timely files that return.
27. Section 7508A was modeled after Section 7508. Both Section 7508 and Section 7508A specify periods to “be disregarded in determining, under the internal revenue laws, in respect of any tax liability,” the length of time permitted for various acts, such as the filing of a tax return. And both Sections call for the suspension of Interest-Limiting Exemptions whenever a Virgin Islands taxpayer is entitled to such an extension.
28. Following the Stafford Act’s amendment to Section 7805A, the statutory language provided:
- (c) Special rules for overpayments.—The rules of section 7508(b) shall apply for purposes of this section.
 - (d) Mandatory 60-day extension.— (1) In general.—In the case of any qualified taxpayer, the period—(A) beginning on the earliest incident date specified in the declaration to which the disaster area referred to in paragraph (2) relates, and (B) ending on the date which is 60 days after the latest incident date so specified, shall be disregarded in the same manner as a period specified under subsection (a).
29. Thus, Section 7508A(d) provides for a mandatory tolling for all qualified Virgin Islands taxpayers from the “earliest incident date” until 60 days following the “latest incident date.”
30. Whenever a Virgin Islands taxpayer is entitled to disaster-related tolling with respect to a tax return, subsection Section 7508A(c) —entitled “Special Rules for Overpayments”— suspends the Interest-Limiting Exemptions in the same manner as Section 7508. Section 7508A(c) provides: “[t]he rules of section 7508(b) shall apply for purposes of this section.” 26 U.S.C. § 7508A(c) (2019). Accordingly, the Late Filing Rule, 45-Day Rules, and 180-Day Rules should not have been applied by the BIR to Plaintiff or to the other members of the Class.

31. Section 7508A(d)(1) was further amended in 2021 to redefine the mandatory extension period to end “on the date which is 60 days after the later of . . . [the] earliest incident date . . . or the date such declaration was issued.” Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 80501(a)(1), 135 Stat. 429, 1335 (Nov. 15, 2021). However, the 2021 amendment was not made retroactive and does not affect Plaintiff’s claims in this case. In Section 80501(b) of the Infrastructure Investment and Jobs Act, 135 Stat. 1335, Congress provided: “(b) EFFECTIVE DATE.— The amendment made by this section shall apply to federally declared disasters declared after the date of enactment of this Act.” This amendment was enacted on November 15, 2021, and, as further described below, President Trump had by that time already declared the COVID-19 pandemic to be a disaster in all U.S. states and territories (including the Virgin Islands), and the District of Columbia.

32. On March 13, 2020, President Trump issued an emergency declaration under the authority of the Stafford Act for all states and territories (the “Emergency Declaration”).¹ President Trump wrote: “I have determined that the ongoing Coronavirus Disease 2019 (COVID-19) pandemic is of sufficient severity and magnitude to warrant an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the “Stafford Act”). . . . [A]s an initial step, I hereby determine, under section 501(b) of the Stafford Act, that an emergency exists nationwide.”

33. President Trump then issued separate declarations, under Stafford Act Section 401(a), for all 50 states, the District of Columbia, and all U.S. territories, in which he declared that the COVID-

¹ See <https://trumpwhitehouse.archives.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/>

19 pandemic constituted a major disaster in each of them (the “Stafford Act Disaster Declarations”).²

34. All of the Stafford Act Disaster Declarations were substantively identical, and they all defined the duration of the major disaster as “beginning on January 20, 2020, and continuing.” See 85 Fed. Reg. 27426 (May 8, 2020) (Virgin Islands; Major Disaster and Related Determinations) (“I have determined that the emergency conditions in the territory of the U.S. Virgin Islands resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ‘Stafford Act’). Therefore, I declare that such a major disaster exists in the territory of the U.S. Virgin Islands.”).

35. Therefore, the COVID-19 pandemic also constituted a disaster that entitled all Virgin Islands taxpayers to the mandatory tax relief provided by the Stafford Act’s amendment to Section 7508A. See 26 U.S.C. § 7508A(d)(2)(A), (B) (defining “qualified taxpayers” to include those residing in, or with a “principal place of business in,” a “disaster area”); 26 U.S.C. § 7508A(d)(3) (“For purposes of this subsection, the term ‘disaster area’ has the meaning given such term under subparagraph (B) of section 165(i)(5) with respect to a Federally declared disaster (as defined in subparagraph (A) of such section).”).

36. The Stafford Act Disaster Declarations were amended multiple times. The final amendment specified the ending incident date: “Notice is hereby given that the incident period for all COVID-19 major disaster declarations and the nationwide emergency declaration will close

² See https://www.congress.gov/crs_external_products/R/PDF/R46326/R46326.5.pdf

effective May 11, 2023.” Major Disaster Declarations and Related Determinations: Expiration of COVID-19-Related Measures, 88 Fed. Reg. 8884 (Feb. 10, 2023).

37. Courts and the IRS consistently have interpreted the combat-zone tax-relief statute, 26 U.S.C. § 7508, to provide tolling during the periods in which the taxpayer is deployed, and not to provide for a mere grace period. *See* Rev. Rul. 76-425 (“The last date for the timely performance of the acts enumerated in section 7508 of the Code, relating to an individual serving in a combat zone, is determined by adding to the time to be disregarded under section 7508 the time which remained for the performance of such acts at the time the individual entered the combat zone.”); Rev. Rul. 70-159 (“*Held*, since the individual qualifies for the extended period provided in section 7508(a) of the Code, the joint income tax return for the year 1968, that included his spouse’s separate income, was a timely filed and valid joint return.”); *accord Wood v. Comm’r*, T.C. Memo. 2021-103 (Tax Ct. 2021) (“section 7508 allowed an extension of time to file to taxpayers who were serving in support of the U.S. Armed Forces in an area designated by the President as a combat zone.”); *Hampton v. United States*, 206 Ct. Cl. 422, 439-40 (1975) (“However, Colonel Hampton was assigned to active duty in Vietnam on November 3, 1967, and the Government maintains that the running of the statute of limitations was suspended during his service in that combat zone by virtue of [§] 7508 of the Code[.]”).
38. Virgin Islands taxpayers entitled to disaster-related tax relief under Section 7508A likewise are entitled to the benefit of tolling since the statutory text is identical. *Compare* 26 U.S.C. § 7508(a) (providing that the relevant time period “shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability . . . Whether any of the following acts was performed within the time prescribed therefor”), *with* 26 U.S.C. § 7508A(a) (the Treasury may “specify a

period of up to 1 year that may be disregarded in determining, under the internal revenue laws, in respect of any tax liability of such taxpayer . . . whether any of the acts described in paragraph (1) of section 7508(a) were performed within the time prescribed therefor . . .”).

39. The Defendant (including the BIR) has failed to provide the mandatory tax relief provided by Congress, in direct contravention of the plain text of Section 7508A(c) and (d).
40. Consistent with Section 7508 (the combat-zone statute) and the plain language of Section 7508A, the mandatory extension operates as a tolling period. Therefore, the Interest-Limiting Exemptions do not apply when a refund is issued to any Virgin Islands taxpayer with a Virgin Islands principal residence or principal place of business (other than the business of performing services as an employee) with respect to a timely filed tax return, if the Virgin Islands taxpayer's time prescribed for filing that return (without regard to extensions that began after May 11, 2023) overlapped the period from January 20, 2020, through July 10, 2023.

FACTS

41. The Plaintiff filed his 2020 Form 1040 with the BIR on October 15, 2021, requesting a refund of \$1,136,785.
42. The Defendant issued the Plaintiff a refund check on or about August 4, 2024, in the amount of \$1,345,004.62.
43. Plaintiff has performed his interest calculations, *see* directly below, and it shows that the Plaintiff was due \$212,773.47 in interest calculated from October 15, 2021, to August 4, 2024.

IRS Overpayment Refund Interest Calculation					
IRC §6611 / §6621 — Daily Compounding					
INPUT PARAMETERS					
Date Filed (Return Due Date)	10/15/2021				
Overpayment Amount	\$1,136,785				
Date Paid (Refund Date)	08/04/2024				
Taxpayer Type	Noncorporate (Individual)				
Quarter	Period	Annual Rate	Days in Period	Daily Rate	Interest Accrued
Q4 2021	10/15/2021 - 12/31/2021	3.0%	78	0.00821918%	\$7,310.99
Q1 2022	01/01/2022 - 03/31/2022	3.0%	90	0.00821918%	\$8,494.20
Q2 2022	04/01/2022 - 06/30/2022	4.0%	91	0.01095890%	\$11,551.19
Q3 2022	07/01/2022 - 09/30/2022	5.0%	92	0.01369863%	\$14,763.19
Q4 2022	10/01/2022 - 12/31/2022	6.0%	92	0.01643836%	\$17,962.92
Q1 2023	01/01/2023 - 03/31/2023	7.0%	90	0.01917808%	\$20,835.56
Q2 2023	04/01/2023 - 06/30/2023	7.0%	91	0.01917808%	\$21,435.87
Q3 2023	07/01/2023 - 09/30/2023	7.0%	92	0.01917808%	\$22,055.04
Q4 2023	10/01/2023 - 12/31/2023	8.0%	92	0.02191781%	\$25,686.49
Q1 2024	01/01/2024 - 03/31/2024	8.0%	91	0.02191781%	\$25,921.90
Q2 2024	04/01/2024 - 06/30/2024	8.0%	91	0.02191781%	\$26,444.05
Q3 2024	07/01/2024 - 08/04/2024	8.0%	35	0.02191781%	\$10,312.04
TOTAL INTEREST (Daily Compounding)				1025 days	\$212,773.47
SUMMARY					
Original Overpayment	\$1,136,785.00				
Total Interest Accrued	\$212,773.47				
Total Refund (Principal + Interest)	\$1,349,558.47				
Interest Period (Days)	1025				

44. Plaintiff has performed his interest calculations, see directly below, and it shows that the Plaintiff was due \$233,224.89 in interest calculated from April 15, 2021, to August 4, 2024.

IRS Overpayment Refund Interest Calculation						
IRC §6611 / §6621 — Daily Compounding						
INPUT PARAMETERS						
Interest Start Date	04/15/2021					
Overpayment Amount	\$1,136,785					
Date Paid (Refund Date)	08/04/2024					
Taxpayer Type	Noncorporate (Individual)					
Quarter	Period	Annual Rate	Days in Period	Daily Rate	Interest Accrued	
Q2 2021	04/15/2021 - 06/30/2021	3.0%	77	0.00821918%	\$7,216.96	
Q3 2021	07/01/2021 - 09/30/2021	3.0%	92	0.00821918%	\$8,682.97	
Q4 2021	10/01/2021 - 12/31/2021	3.0%	92	0.00821918%	\$8,748.87	
Q1 2022	01/01/2022 - 03/31/2022	3.0%	90	0.00821918%	\$8,622.93	
Q2 2022	04/01/2022 - 06/30/2022	4.0%	91	0.01095890%	\$11,726.24	
Q3 2022	07/01/2022 - 09/30/2022	5.0%	92	0.01369863%	\$14,986.92	
Q4 2022	10/01/2022 - 12/31/2022	6.0%	92	0.01643836%	\$18,235.14	
Q1 2023	01/01/2023 - 03/31/2023	7.0%	90	0.01917808%	\$21,151.31	
Q2 2023	04/01/2023 - 06/30/2023	7.0%	91	0.01917808%	\$21,760.71	
Q3 2023	07/01/2023 - 09/30/2023	7.0%	92	0.01917808%	\$22,389.27	
Q4 2023	10/01/2023 - 12/31/2023	8.0%	92	0.02191781%	\$26,075.75	
Q1 2024	01/01/2024 - 03/31/2024	8.0%	91	0.02191781%	\$26,314.73	
Q2 2024	04/01/2024 - 06/30/2024	8.0%	91	0.02191781%	\$26,844.79	
Q3 2024	07/01/2024 - 08/04/2024	8.0%	35	0.02191781%	\$10,468.31	
TOTAL INTEREST (Daily Compounding)				1208 days	\$233,224.89	
SUMMARY						
Original Overpayment	\$1,136,785.00					
Total Interest Accrued	\$233,224.89					
Total Refund (Principal + Interest)	\$1,370,009.89					
Interest Period (Days)	1208					

45. Defendant has failed to pay the Plaintiff the full amount (i.e., \$20,451.42) of his overpayment interest (\$233,224.89 – \$212,773.47 = \$20,451.42).

46. Upon information and belief, the Defendant did not pay the Plaintiff the full amount of his overpayment interest because, pursuant to 26 U.S.C. § 6611(a), the BIR excluded interest from April 15, 2021, to October 15, 2021.

47. Plaintiff has been harmed/damaged by the Defendant’s actions by approximately \$20,451.42.

CLASS ALLEGATIONS

48. Plaintiff brings this Complaint individually and as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

49. The class Plaintiffs represent (the “Class”) is initially defined as:

- (i) Virgin Islands taxpayers who filed a tax return with the BIR (whether for income tax or any other kind of tax) that resided in any location impacted by the Presidential Stafford Act Disaster Declarations;
- (ii) whose time prescribed for filing that return overlapped the period from January 20, 2020, through July 10, 2023;
- (iii) who filed that return with the BIR by the filing deadline that would result from tolling the period from January 20, 2020, through July 10, 2023;
- (iv) who received a refund with respect to that return (including pursuant to a refund claim or BIR-initiated adjustment); and
- (v) whose refund would have generated additional interest absent application of 26 U.S.C. § 6611(b)(3) or (e).

50. Excluded from the proposed Class is any Judge to whom this case is assigned as well as his or her immediate family.

Numerosity of the Class – Rule 23(a)(1)

51. The proposed Class is so numerous that joinder of all members is impractical. While the exact number and identity of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, upon information and belief (together with a good dose of common sense) the number of class members in the Class is in the hundreds if not thousands.

52. The Class that Plaintiff represents is therefore so numerous such that joinder of each member of the Class is impracticable.

Existence and Predominance of Common Questions - Fed. R. Civ. P. 23(a)(2), 23(b)(3)

53. Questions of law and fact common to the Class predominate over any questions affecting only individual Class members. Those common questions include, but are not limited to, the following: (A) Was there statutory tolling under Section 7508A(d)? (B) If so, what was the duration of the tolling period? (C) And did the tolling suspend application of the Interest-Limiting Exemptions to members of the Class?

Typicality - Rule 23(a)(3)

54. The claims of Plaintiff are typical of the claims of the Class members because he overpaid his taxes, filed a tax return during the relevant period, and received a refund of his overpayments, but did not receive the full amount of statutorily mandated interest on those overpayments.

Adequacy of Representation - Rule 23(a)(4)

55. Plaintiff will fairly and adequately protect the interests of the Class because his interests are aligned with those of the Class members he seeks to represent. Plaintiff has retained counsel competent and experienced in (i) complex tax litigation, (ii) Virgin Islands tax litigation, (iii) class actions (all of which are in and related to the USVI), *see Duncan v. Governor of Virgin Islands*, 48 F.4th 195 (3d Cir. 2022) (remanding class action litigation to this Court), and Plaintiff intends to prosecute this action vigorously on Class members' behalf. Additionally, the undersigned has been appointed class counsel by the Complex Division of the Virgin Islands Superior Court. *See Olson v. Virgin Islands Water & Power Auth.*, 79 V.I. 23, 49, 2024 VI SUPER 17, ¶ 35 (V.I. Super. Ct. 2024) ("From the bench, the Court granted Plaintiff's motion to certify a class and appointed Plaintiff's counsel, Joseph A. DiRuzzo, III, Esq., class counsel."). And the USVI DOJ has agreed

that the undersigned will be class counsel in another case pending before the Complex Division of the Superior Court. See *Morton v. Bryan, et al.*, case no. st-2016-mc-56 (V.I. Super. Ct.) (settlement agreement filed 12/22/2025).

56. Further, there is no conflict between Plaintiff and the Class members as Plaintiff is seeking a change in the way that the Defendant calculates (and in turn pays) overpayment interest. Thus, each Virgin Islands taxpayer who is owed overpayment interest is similarly situated with other Virgin Islands taxpayers who are owed overpayment interest. In other words, Plaintiff is pursuing overpayment interest under the same statutes and the same theories of liability, and the differences between the Plaintiff and the Class will not pit one group's interests against another.

Superiority - Rule 23(b)(3)

57. A class action is superior to other available methods for the fair and efficient adjudication of the controversy, and individual joinder of all members of the Class is impracticable. Moreover, the cost to the court system of such individualized litigation would be substantial. Individualized litigation would likewise present the potential for inconsistent or contradictory judgments and would result in significant delay and expense to all parties and could cause the Court to hear virtually identical lawsuits. By contrast, the conduct of this action as a class action presents far fewer management difficulties, conserves the resources of the parties and the Court, protects the rights of each Class member and maximizes recovery to them.

58. There will be little difficulty in managing this action as a class action because those predominating common questions apply class-wide and individual damages can be mechanically determined using the BIR's own records, which contain addresses and data showing when each

Class member's tax returns were filed, the amount of the overpayments, the amount and issuance dates of refunds of those overpayments, any overpayment interest paid, and all other electronic data necessary to automatically recalculate the amount of interest owed to each prospective Class member in the absence of the Interest-Limiting Exemptions. The BIR's records also contain the names and most recent contact information for all prospective Class members.

59. Joinder of all members is impracticable. Because the injury suffered by the individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the proposed Class to individually redress the wrongs done to them.

60. In the alternative, the Class may be certified under the provisions of Fed. R. Civ. P. 23(b)(1) and/or 23(b)(2) and/or 23(c)(4) because:

- A. The prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect to individual Class members, which would establish incompatible standards of conduct for the Defendant;
- B. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests;
- C. Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final declaratory relief with respect to the Class as a whole; and
- D. Some or all of the particular issues identified above are such that it is appropriate to maintain this case as a class action.

CAUSE OF ACTION – COUNT 1
(overpayment interest)

61. Plaintiff realleges the allegations set forth above and reincorporates by reference herein.
62. 26 U.S.C. § 6611(a), as mirrored to the Virgin Islands, provides Virgin Islands taxpayers with the necessary substantive waiver of sovereign immunity to allow Plaintiff to seek overpayment interest.
63. The Stafford Act Disaster Declarations caused mandatory tolling of tax-return filing deadlines for Plaintiff and Virgin Islands taxpayers for several years. *See* 26 U.S.C. § 7508A(d). *See also* *Kwong, supra*.
64. The Interest-Limiting Exemptions that often limit the USVI's obligation to pay interest when refunding Virgin Islands taxpayers' overpayments do not apply when there is a disaster-related tolling of filing deadlines. *See* 26 U.S.C. § 7508A(c).
65. Defendant nonetheless applied those Interest-Limiting Exemptions to Plaintiff and the other members of the Class.
66. By applying the Interest-Limiting Exemptions to Plaintiff and the other Class members, the USVI failed to pay the full amount of interest it was required by statute to pay Virgin Islands taxpayers, including the approximately \$20,451.42 due to the Plaintiff.
67. Plaintiff and the other Class members are among those Virgin Islands taxpayers who were not paid interest which they are owed by virtue of the Section 7508A tolling and are therefore entitled to the payment of that interest (i.e., overpayment interest), including ongoing compounding of the interest that has not been paid (i.e., interest on interest), *see* 26 U.S.C. § 6622.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that the Court:

- i. Certify the Class under Fed. R. Civ. P. 23, appoint Plaintiff as class representative, and appoint Joseph A. DiRuzzo, III, as class counsel;
- ii. Award Plaintiff and the Class monetary relief for unpaid interest under 26 U.S.C. § 6611, including compounding as required under 26 U.S.C. § 6622;
- iii. Determine that Plaintiff and his counsel have generated for the Class, through this action, a common fund of monetary relief owed or to be paid to the Class members and from that common fund award Plaintiff's counsel reasonable attorneys' fees and out of pocket costs incurred in representing the Class and generating the common fund; and
- iv. Award Plaintiff and the Class such other relief as this Court may deem just and proper under the circumstances.

Respectfully submitted,

/s/ Joseph A. DiRuzzo, III
Joseph A. DiRuzzo, III
VI Bar No. 1114
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